

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 3869 / July 2, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15835

In the Matter of

ANTHONY J. DAVIAN,

Respondent.

**ORDER MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940**

I.

On April 10, 2014, the Securities and Exchange Commission (“Commission”) deemed it appropriate and in the public interest that public administrative proceedings be instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Anthony J. Davian (“Respondent” or “Davian”).

II.

Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings and consents to the entry of this Order Making Findings and Imposing Remedial Sanctions Pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

A. RESPONDENT

1. Since July 2008, Davian has been the managing member of Davian Capital Advisors, LLC (“Davian Capital”), an unregistered investment adviser to several private investment funds formed by Davian, including Davian Capital L.P., Davian Capital L.P. II, Rubber City Gravity L.P., Rubber City Pure Alpha, L.P., Cleveland Gravity Fund L.P., Cleveland Pure Alpha Fund, L.P., Cleveland Pure Alpha II L.P., and Cleveland Precious Metals Fund, L.P. Davian, 34 years old, is a resident of Copley, Ohio.

B. ENTRY OF THE INJUNCTION

2. On March 24, 2014, a final judgment was entered by consent against Davian, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder, in the civil action entitled Securities and Exchange Commission v. Anthony J. Davian, et al., Civil Action Number 5:13-CV-1762, in the United States District Court for the Northern District of Ohio.

3. The Commission’s complaint alleged that, since 2011, Davian raised at least \$1.5 million from investors for investment in several private funds managed by Davian Capital, provided investors with marketing materials containing fictitious returns and profits for the private funds, and misappropriated most of the money received from investors to pay for personal expenses.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Davian’s Offer.

Accordingly, it is hereby ORDERED pursuant to Section 203(f) of the Advisers Act that Respondent Davian be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served

as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Jill M. Peterson
Assistant Secretary